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minated. *Matter of Rhinebeck & Conn. R. R., supra*; *Union Ry. v. Standard Wheel Co.* (C. C. A. 1906) 149 Fed. 698, on the ground that otherwise great inconvenience and damage would result to the landowner. See *Drath v. Burlington, etc. R. R.* (1884) 15 Neb. 367, 18 N. W. 767. It would seem, however, that in those jurisdictions which regard the award as merely fixing the price at which the condemnor can obtain the land if he chooses, the landowner should be allowed to recover damages caused by the public service company in not giving notice of abandonment of the proceedings within a reasonable time after the award has been fixed. See *Winkelman v. Chicago* (1905) 213 Ill. 360, 72 N. E. 1066; but see 2 Lewis, *Eminent Domain* (3rd ed.) § 957. As a further protection to the landowner in such jurisdictions, the award fixed in condemnation proceedings is so far binding upon the condemnor that the question of the amount of the compensation cannot again be litigated. *Illinois Central R. R. v. Champaign* (1896) 163 Ill. 524, 45 N. E. 120. It would seem that whether the award is to be regarded as a judgment finally determining the rights of the parties, or merely a price at which the condemnor can take the land if it chooses is a question of policy; and neither view can be quarreled with since both reach practically the same results. The view taken by the court in the principal case is preferable only in that it provides a simpler and more expeditious method of determining the controversies that might be involved.

FIXTURES—CHATTEL ANNEXED TO LAND BY MISTAKE.—The plaintiff, under a mistake as to the boundary line between his lot and the defendant's, built a fence on the defendant's land, despite the defendant's objection. *Held*, that he could replevy the fence, on the defendant's refusal to allow its removal. *Ousley v. Lambeth* (Mo. App. 1917) 199 S. W. 594.

When the owner of a chattel affixes it to another's land, without permission, and in such a manner that it would become a fixture if chattel and land belonged to the same person, it becomes the property of the owner of the soil. *Barnes v. Hosmer* (1907) 196 Mass. 323, 82 N. E. 27; *Ward v. Ives* (1916) 91 Conn. 12, 98 Atl. 337. The rule operates with the fullest vigor where the person annexing the chattel is a mere trespasser. *Perley v. City of Cambridge* (1915) 220 Mass. 507, 108 N. E. 494; 7 Columbia Law Rev. 21. Express or implied assent by the landowner that the chattel remain the property of the annexing owner, will be effective as regards the parties and subsequent purchasers with notice. *Boeringa v. Perry* (Wash. 1917) 164 Pac. 773; *Clayton v. Phillipp* (Tex. Civ. App. 1913) 159 S. W. 117. Mutual mistake of the parties, who think the owner of the chattel is affixing it to his own land, is generally held not equivalent to consent on the part of the owner of the land to which it has actually been affixed. *Kimball v. Adams* (1881) 52 Wis. 554. The Missouri courts, however, have consistently interpreted such mistake as assent. *Lowenberg v. Bernd* (1871) 47 Mo. 297; *Ewell, Fixtures*, 59, n. 2. But there was no bilateral mistake in the instant case; the defendant was aware of his rights, and apprised the plaintiff of them. Nor may assent be implied from failure to prevent the building of the fence. The defendant had given notice that he proposed to keep the fence if built upon his land, and his subsequent inaction accordingly evidenced acquiescence only in the conferment upon him of a voluntary benefit. It is submitted that the case was within the general rule as to chattels affixed by a trespasser, and that recovery should have been denied as a matter of law.